
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1415

State of Washington

59th Legislature

2005 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Dickerson, B. Sullivan, Dunshee, Williams, Hunt, Eickmeyer, Chase, Sells and Hasegawa)

READ FIRST TIME 03/08/05.

1 AN ACT Relating to impacts of commercial passenger vessels on the
2 marine waters of Washington; amending RCW 90.48.020; adding new
3 sections to chapter 90.48 RCW; prescribing penalties; providing an
4 effective date; and providing an expiration date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 90.48 RCW
7 to read as follows:

8 (1) The legislature finds that large vessels specifically designed
9 for the housing of people upon the seas, unlike vessels designed to
10 transport cargo or petroleum that carry crew as an ancillary function
11 of cargo transport, function primarily as a temporary residential
12 facility, especially while these vessels are stationary at their port
13 of call. The primary function of these vessels is more akin to a
14 floating hotel or a houseboat than it is to a transportation vessel.

15 (2) It is the intent of the legislature to ensure that the
16 blackwater, graywater, and other wastes eventually released by the
17 owners and operators of commercial passenger vessels satisfies the
18 state's standards for protecting the quality of its waters. It is the
19 traditional and long-standing role of the state to ensure that any

1 substances being released into its waters will not, given the unique
2 nature of the state's local waters, adversely impact either the state's
3 economic or environmental interests.

4 (3) It is the intent of the legislature for the department to fund
5 the implementation of the commercial passenger vessel program created
6 in sections 2 through 11 of this act exclusively through appropriations
7 provided from the commercial passenger vessel enforcement account
8 created in section 9 of this act.

9 **Sec. 2.** RCW 90.48.020 and 2002 c 161 s 4 are each amended to read
10 as follows:

11 ~~((Whenever the word))~~ The definitions in this section apply
12 throughout this chapter unless the context clearly requires otherwise.

13 (1) "Person" ~~((is used in this chapter, it shall be construed to))~~
14 includes any political subdivision, government agency, municipality,
15 industry, public or private corporation, copartnership, association,
16 firm, individual, or any other entity whatsoever.

17 ~~((Wherever the words))~~ (2) "Waters of the state" ~~((shall be used in~~
18 ~~this chapter, they shall be construed to))~~ includes lakes, rivers,
19 ponds, streams, inland waters, underground waters, salt waters, and all
20 other surface waters and watercourses within the jurisdiction of the
21 state of Washington.

22 ~~((Whenever the word))~~ (3) "Pollution" ~~((is used in this chapter, it~~
23 ~~shall be construed to))~~ means such contamination, or other alteration
24 of the physical, chemical, or biological properties, of any waters of
25 the state, including change in temperature, taste, color, turbidity, or
26 odor of the waters, or such discharge of any liquid, gaseous, solid,
27 radioactive, or other substance into any waters of the state as will or
28 is likely to create a nuisance or render such waters harmful,
29 detrimental, or injurious to the public health, safety, or welfare, or
30 to domestic, commercial, industrial, agricultural, recreational, or
31 other legitimate beneficial uses, or to livestock, wild animals, birds,
32 fish, or other aquatic life.

33 ~~((Wherever the word))~~ (4) "Department" ~~((is used in this chapter it~~
34 ~~shall))~~ means the department of ecology.

35 ~~((Whenever the word))~~ (5) "Director" ~~((is used in this chapter it~~
36 ~~shall))~~ means the director of ecology.

1 (~~Whenever the words~~) (6) "Aquatic noxious weed" (~~(are used in~~
2 ~~this chapter, they have)~~) has the meaning (~~(prescribed under)~~) provided
3 in RCW 17.26.020.

4 (~~Whenever the words~~) (7) "General sewer plan" (~~(are used in this~~
5 ~~chapter they shall be construed to)~~) includes all sewerage general
6 plans, sewer general comprehensive plans, plans for a system of
7 sewerage, and other plans for sewer systems adopted by a local
8 government entity including but not limited to cities, towns, public
9 utility districts, and water-sewer districts.

10 (8) "Blackwater" means treated or untreated sewage wastewater from
11 the toilets, urinals, medical sinks, and similar facilities on
12 commercial passenger vessels.

13 (9) "Biomedical waste" has the same meaning provided in RCW
14 70.95K.010.

15 (10) "Commercial passenger vessel" means a vessel not owned by the
16 government of the United States or a foreign nation that is authorized
17 and capable of providing overnight accommodations for at least fifty
18 passengers for hire.

19 (11) "Dangerous waste" has the meaning provided in RCW 70.105.010.

20 (12) "Graywater" means treated or untreated galley, dishwater,
21 bath, and laundry wastewaters from a commercial passenger vessel.

22 (13) "Oily bilge water" includes bilge water that contains used
23 lubrication oils, oil sludge and slops, fuel and oil sludge, used oil,
24 used fuel and fuel filters, and oily waste.

25 (14) "Passengers for hire" means vessel passengers that are
26 required to contribute some form of consideration as a condition of
27 carriage on the vessel, whether that consideration flows directly or
28 indirectly to the owner, charterer, operator, agent, or other person
29 having an interest in the vessel.

30 (15) "Release" means any discharge, however caused, from a
31 commercial passenger vessel, and includes any escape, disposal,
32 spilling, leaking, pumping, emitting, or emptying.

33 (16) "Sewage sludge" has the meaning provided in RCW 70.95.030.

34 (17) "Solid waste" has the meaning provided in RCW 70.95.030.

35 NEW SECTION. Sec. 3. A new section is added to chapter 90.48 RCW
36 to read as follows:

37 (1) Except as otherwise provided in this section or section 10 of

1 this act, a person may not, regardless of intent, release sewage
2 sludge, solid waste, biomedical waste, dangerous waste, untreated
3 graywater, or untreated blackwater from a commercial passenger vessel
4 into any waters of the state.

5 (2) Except as otherwise provided in this section, a person may not,
6 regardless of intent, release oily bilge water into any waters of the
7 state if not in compliance with applicable federal law.

8 (3) This section does not apply to releases made for the purpose of
9 securing the safety of a commercial passenger vessel or saving life at
10 sea if all reasonable precautions have been taken to prevent or
11 minimize the release.

12 NEW SECTION. **Sec. 4.** A new section is added to chapter 90.48 RCW
13 to read as follows:

14 (1) Except as provided in this section or section 10 of this act,
15 a person may not release blackwater into any waters of the state from
16 a commercial passenger vessel that calls on a public port in Washington
17 unless the owner or operator of the commercial passenger vessel has
18 been approved for blackwater releases by the department for the vessel
19 in question.

20 (2)(a) The department shall approve blackwater releases from a
21 commercial passenger vessel if the owner or operator of the commercial
22 passenger vessel:

23 (i) Can demonstrate to the department's satisfaction, based on
24 effluent limits and requirements for sampling and reporting established
25 by the department, that the blackwater to be released from the vessel
26 will receive an adequate level of treatment to protect the quality of
27 the water receiving the release; and

28 (ii) Has paid the mandatory annual operating fee established in
29 section 8 of this act.

30 (b) The department shall presume that the level of treatment given
31 to blackwater releases from a vessel is adequate if the owner or
32 operator of a commercial passenger vessel satisfies the requirements of
33 section 5 of this act and provides documentation to the department
34 about the type of wastewater treatment system in use on the vessel, and
35 documentation that the wastewater treatment system on the vessel in
36 question has been certified by the United States coast guard for
37 continuous discharge of blackwater in the state of Alaska. If the

1 mandatory annual operating fee established in section 8 of this act has
2 been satisfied, the approval for blackwater release may be presumed by
3 the owner or operator of a commercial passenger vessel providing such
4 documentation if the department has not provided notification in
5 writing to the contrary or a request in writing for further
6 documentation to demonstrate coast guard approval within sixty days of
7 submitting the original documentation.

8 (3) Approvals granted by the department under this section remain
9 in effect until January 1st following the approval and may be rescinded
10 if substantial changes are made to the approved wastewater treatment
11 system or if a violation of section 5 of this act is discovered.

12 (4) This section does not apply to releases made for the purpose of
13 securing the safety of a commercial passenger vessel or saving life at
14 sea if all reasonable precautions have been taken to prevent or
15 minimize the release.

16 NEW SECTION. **Sec. 5.** A new section is added to chapter 90.48 RCW
17 to read as follows:

18 (1) The owner or operator of a commercial passenger vessel that is
19 operating under the presumption of adequate blackwater treatment
20 granted in section 4 of this act may only maintain the presumption of
21 adequacy if the owner or operator agrees with the department to do all
22 of the following when the vessel is at least more than one nautical
23 mile from its berth at a public port in Washington and is traveling at
24 least six knots or more:

25 (a) Sample the quality of the treated blackwater released from the
26 commercial passenger vessel while at berth at a Washington public port
27 at least once during each month that the commercial passenger vessel
28 calls on a public port in Washington. The sample must be analyzed by
29 a department-approved laboratory for all parameters required to be
30 tested in order to obtain the necessary United States coast guard
31 certification referenced by section 4 of this act for continuous
32 discharge of blackwater in the state of Alaska, and must include, at a
33 minimum, the following five parameters: pH, biochemical oxygen demand,
34 fecal coliform, total suspended solids, and residual chlorine;

35 (b) Share all effluent samples with the department, when requested
36 in writing, for all samples taken in waters of the state;

1 (c) Conduct a whole effluent toxicity test, or WET test, at least
2 once every two years unless the department provides notification in
3 writing that such testing is unnecessary;

4 (d) Provide the department, when requested in writing, with
5 duplicate results of tests performed on the commercial passenger
6 vessel's wastewater treatment system in other jurisdictions;

7 (e) Notify the department at least one week before sampling in
8 waters of the state is to occur, and allow department staff to observe
9 the sampling events when requested;

10 (f) Immediately report to the department any unauthorized
11 discharges;

12 (g) Allow the department to conduct a minimum of one inspection of
13 the commercial passenger vessel, if requested in writing, to verify the
14 operating conditions of the wastewater treatment system; and

15 (h) Notify the department if material changes are made to the
16 wastewater treatment system approved under section 4 of this act.

17 (2) The owner or operator of a commercial passenger vessel that is
18 operating under the presumption of adequate blackwater treatment
19 granted in section 4 of this act may only maintain the presumption of
20 adequacy if the owner or operator agrees with the department to do all
21 of the following when the vessel is at or within one nautical mile of
22 its berth at a public port in Washington:

23 (a) Comply with the requirements set forth in subsection (1)(a)
24 through (h) of this section;

25 (b) Provide twenty-four hour continuous monitoring of the turbidity
26 of any released blackwater, or an equivalent to turbidity monitoring
27 agreed to by the department that judges the effluent released by the
28 wastewater treatment system of a commercial passenger vessel;

29 (c) Provide documentation to the department that all treated
30 blackwater will receive adequate disinfection immediately before
31 discharge;

32 (d) Provide copies of any water quality tests taken from the
33 effluent of the commercial passenger vessel during the six months
34 preceding the approved release; and

35 (e) Provide documentation of the commercial passenger vessel's
36 wastewater treatment system design that demonstrates:

37 (i) That the system can be either automatically shut down or that

1 there are operational procedures in place to ensure an immediate shut
2 down of the system if effluent monitoring reveals that the wastewater
3 treatment system is malfunctioning;

4 (ii) A plan has been adopted that describes protocols for notifying
5 the department if the wastewater treatment system malfunctions or is
6 shut down while in the waters of the state; and

7 (iii) How blackwater will be stored, including the capacity of any
8 holding tanks to be used, until the wastewater treatment system is
9 repaired and operating.

10 NEW SECTION. **Sec. 6.** A new section is added to chapter 90.48 RCW
11 to read as follows:

12 (1) Except as provided in this section or section 10 of this act,
13 a person may not release graywater into any waters of the state from a
14 commercial passenger vessel that calls on a public port in Washington
15 unless the owner or operator of the commercial passenger vessel has
16 been approved for graywater releases by the department for the vessel
17 in question.

18 (2)(a) The department shall approve graywater releases from a
19 commercial passenger vessel if the owner or operator of the commercial
20 passenger vessel:

21 (i) Can demonstrate to the department's satisfaction, based on
22 effluent limits and requirements for sampling and reporting established
23 by the department, that the graywater to be released from the vessel
24 will receive an adequate level of treatment to protect the quality of
25 the water receiving the release; and

26 (ii) Has paid the mandatory annual operating fee established in
27 section 8 of this act.

28 (b) The department shall presume that the level of treatment given
29 to graywater releases from a vessel is adequate if the owner or
30 operator of a commercial passenger vessel satisfies the requirements of
31 section 7 of this act and provides documentation to the department
32 about the type of wastewater treatment system in use on the vessel, and
33 documentation that the wastewater treatment system on the vessel in
34 question has been certified by the United States coast guard for
35 continuous discharge of graywater in the state of Alaska. If the
36 mandatory annual operating fee established in section 8 of this act has
37 been satisfied, the approval for graywater release may be presumed by

1 the owner or operator of a commercial passenger vessel providing such
2 documentation if the department has not provided notification in
3 writing to the contrary or a request in writing for further
4 documentation to demonstrate coast guard approval within sixty days of
5 submitting the original documentation.

6 (3) Approvals granted by the department under this section remain
7 in effect until January 1st following the approval and may be rescinded
8 if substantial changes are made to the approved wastewater treatment
9 system or if a violation of section 7 of this act is discovered.

10 (4) This section does not apply to releases made for the purpose of
11 securing the safety of a commercial passenger vessel or saving life at
12 sea if all reasonable precautions have been taken to prevent or
13 minimize the release.

14 NEW SECTION. **Sec. 7.** A new section is added to chapter 90.48 RCW
15 to read as follows:

16 (1) The owner or operator of a commercial passenger vessel that is
17 operating under the presumption of adequate graywater treatment granted
18 in section 6 of this act may only maintain the presumption of adequacy
19 if the owner or operator agrees with the department to do all of the
20 following when the vessel is at least more than one nautical mile from
21 its berth at a public port in Washington and is traveling at least six
22 knots or more:

23 (a) Sample the quality of the treated graywater released from the
24 commercial passenger vessel while at berth at a Washington public port
25 at least once during each month that the commercial passenger vessel
26 calls on a public port in Washington. The sample must be analyzed by
27 a department-approved laboratory for all parameters required to be
28 tested in order to obtain the necessary United States coast guard
29 certification referenced by section 6 of this act for continuous
30 discharge of graywater in the state of Alaska, and must include, at a
31 minimum, the following five parameters: pH, biochemical oxygen demand,
32 fecal coliform, total suspended solids, and residual chlorine;

33 (b) Share all effluent samples with the department, when requested
34 in writing, for all samples taken in waters of the state;

35 (c) Conduct a whole effluent toxicity test, or WET test, at least
36 once every two years unless the department provides notification in
37 writing that such testing is unnecessary;

1 (d) Provide the department, when requested in writing, with
2 duplicate results of tests performed on the commercial passenger
3 vessel's wastewater treatment system in other jurisdictions;

4 (e) Notify the department at least one week before sampling in
5 waters of the state is to occur, and allow department staff to observe
6 the sampling events when requested;

7 (f) Immediately report to the department any unauthorized
8 discharges;

9 (g) Allow the department to conduct a minimum of one inspection of
10 the commercial passenger vessel, if requested in writing, to verify the
11 operating conditions of the wastewater treatment system; and

12 (h) Notify the department if material changes are made to the
13 wastewater treatment system approved under section 6 of this act.

14 (2) The owner or operator of a commercial passenger vessel that is
15 operating under the presumption of adequate graywater treatment granted
16 in section 6 of this act may only maintain the presumption of adequacy
17 if the owner or operator agrees with the department to do all of the
18 following when the vessel is at or within one nautical mile of its
19 berth at a public port in Washington:

20 (a) Comply with the requirements set forth in subsection (1)(a)
21 through (h) of this section;

22 (b) Provide twenty-four hour continuous monitoring of the turbidity
23 of any released graywater, or an equivalent to turbidity monitoring
24 agreed to by the department that judges the effluent released by the
25 wastewater treatment system of a commercial passenger vessel;

26 (c) Provide documentation to the department that all treated
27 graywater will receive adequate disinfection immediately before
28 discharge;

29 (d) Provide copies of any water quality tests taken from the
30 effluent of the commercial passenger vessel during the six months
31 preceding the approved release; and

32 (e) Provide documentation of the commercial passenger vessel's
33 wastewater treatment system design that demonstrates:

34 (i) That the system can be either automatically shut down or that
35 there are operational procedures in place to ensure an immediate shut
36 down of the system if effluent monitoring reveals that the wastewater
37 treatment system is malfunctioning;

1 (ii) A plan has been adopted that describes protocols for notifying
2 the department if the wastewater treatment system malfunctions or is
3 shut down while in the waters of the state; and

4 (iii) How graywater will be stored, including the capacity of any
5 holding tanks to be used, until the wastewater treatment system is
6 repaired and operating.

7 NEW SECTION. **Sec. 8.** A new section is added to chapter 90.48 RCW
8 to read as follows:

9 (1) Before releasing treated blackwater under section 4 of this act
10 or treated graywater under section 6 of this act, the owner or operator
11 of a commercial passenger vessel must remit to the department an annual
12 operating fee in an amount set by the department.

13 (2)(a) The department shall establish the fee schedule necessary to
14 implement this section so that the total estimated receipts equal the
15 estimated annual costs in implementing sections 3 through 11 of this
16 act.

17 (b) The actual fee charged to an individual commercial passenger
18 vessel under this section shall be based on the number of passengers
19 for hire that can be provided with overnight accommodation on the
20 vessel; however, in no event may the annual fee for a commercial
21 passenger vessel under this section exceed four thousand dollars per
22 vessel per year.

23 (3) Fees collected under this section must be deposited into the
24 commercial passenger vessel enforcement account created in section 9 of
25 this act.

26 (4) The department may enter into agreements to collect the annual
27 operations fee from the owner or operators of the commercial passenger
28 vessels calling on a port.

29 NEW SECTION. **Sec. 9.** A new section is added to chapter 90.48 RCW
30 to read as follows:

31 The commercial passenger vessel enforcement account is created in
32 the state treasury. All receipts from annual operating fees paid by
33 the owner or operator of a commercial passenger vessel must be
34 deposited into the account. Moneys in the account may only be used for
35 administering and enforcing the provisions of sections 3 through 11 of
36 this act.

1 NEW SECTION. **Sec. 10.** A new section is added to chapter 90.48 RCW
2 to read as follows:

3 (1) Upon the written application from the owner or operator of a
4 commercial passenger vessel that provides overnight accommodations for
5 less than two hundred fifty passengers for hire, the director of the
6 department shall exempt specific commercial passenger vessels from the
7 requirements of sections 3, 4, and 6 of this act.

8 (2) The owner or operator applying to the director for the
9 exemption allowed in this section has the responsibility to provide the
10 director with the necessary information about his or her specific
11 vessel; however, to streamline the application process for owners and
12 operators, trade associations may submit to the department lists of
13 individual vessels that qualify for an exemption under this section.

14 (3) This exemption in this section expires on December 31, 2009.
15 The director in 2008 shall investigate the state of technologies
16 available to small commercial passenger vessels with the small cruise
17 ship industry and report back to the legislature on January 12, 2009,
18 on whether the exemption should be extended or modified.

19 (4) Vessels that qualify for an exemption under this section are
20 not required to pay the annual operating fee under section 8 of this
21 act.

22 NEW SECTION. **Sec. 11.** A new section is added to chapter 90.48 RCW
23 to read as follows:

24 (1) By November 30, 2007, the department shall submit to the
25 appropriate committees of the legislature a report describing how the
26 management and releases of treated blackwater and graywater from
27 commercial passenger vessels under this chapter are or are not adequate
28 for protecting water quality and public health. At a minimum, the
29 report must make findings as to whether commercial passenger vessels
30 are releasing treated blackwater and graywater in the same locations,
31 and if so, whether the cumulative effects of these releases degrade the
32 water quality in those areas. The report must also address the
33 dilution and dispersion of viruses in the treated blackwater and the
34 impact on shellfish for human consumption.

35 (2) For each year from 2005 until 2010, the department shall
36 analyze all water quality data received from commercial passenger

1 vessels and make available to the public, using the agency's web site,
2 by December 31st of each year a report that summarizes all data
3 collected in lay terms.

4 NEW SECTION. **Sec. 12.** If any provision of this act or its
5 application to any person or circumstance is held invalid, the
6 remainder of the act or the application of the provision to other
7 persons or circumstances is not affected.

8 NEW SECTION. **Sec. 13.** Section 11 of this act expires January 1,
9 2011.

10 NEW SECTION. **Sec. 14.** This act takes effect January 1, 2006.

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